

ENTERED

December 30, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION****THELMA PERUSQUIA,****Plaintiff,****v.****MARTIN O'MALLEY,****Defendant.**§
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§**CIVIL ACTION NO. 5:24-CV-06****ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court is Plaintiff's Motion for Summary Judgment, (Dkt. No. 9), and Defendant's Cross Motion for Summary Judgment, (Dkt. No. 10), for which United States Magistrate Judge Christopher dos Santos provided a Report and Recommendation. (Dkt. No. 15). In his report and recommendation, Judge dos Santos recommends that the Court grant the Plaintiff's Motion for Summary Judgment and deny Defendant's Cross Motion for Summary Judgment. (*Id.* at 1). The time for filing objections has passed, and no objections were filed.

This case arises from Plaintiff's appeal of the denial of her Supplemental Security Income. (Dkt. No. 9-1 at 4). Plaintiff requests that the Court reverse the Administrative Law Judge's ("ALJ") denial of Plaintiff's benefits and remand the case for further administrative proceedings. (Dkt. No. 9 at 1).


A district court is authorized to enter a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for rehearing. *Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991) (quoting 42 U.S.C. § 405(g) sentence four). Sentence four provides the appropriate relief when the evidence on the record is insufficient to support the Commissioner's conclusions and further fact finding is necessary. *See Sullivan v. Finklestein*, 496 U.S. 617, 625–26 (1990). Here, because the Plaintiff seeks a reversal and remand for further administrative proceedings,

sentence four of 42 U.S.C. § 405(g) applies.

No timely objections were filed, so pursuant to Federal Rule of Civil Procedure 72(b)(1), the Court reviewed the report and recommendation and applied the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no abuse of discretion or clearly erroneous findings, the Court hereby **ADOPTS IN WHOLE** the report and recommendation. Accordingly, Plaintiff’s Motion for Summary Judgment, (Dkt. No. 9), is **GRANTED** and Defendant’s Cross Motion for Summary Judgment is **DENIED**. The ALJ’s decision is **REVERSED** and the case is **REMANDED** for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). Upon remand, further consideration will be given to the persuasiveness of favorable medical opinion evidence and to Plaintiff’s Residual Functional Capacity to account for moderate limitations in concentration, persistence, and pace consistent with the report and recommendation. A final judgment will be entered contemporaneously with this Order.

It is so **ORDERED**.

SIGNED on December 30, 2024.



John A. Kazen
United States District Judge